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BOOK REVIEWS.

FRANCIS H. MCADOO, *Editor-in-Charge.*

THE LAW OF REAL ESTATE BROKERS. WITH FORMS.—By FRED. L. GROSS of the Brooklyn Bar. New York: THE RONALD PRESS. 1911.

The author, with his experience and accumulated data, doubtless can, and he ought to, write another and a useful book. In the book that he has written he gives his data, but withholds the benefit of his legal training and experience.

In his preface he says that he has sought wherever possible "to state principles in the language of the courts rather than substitute his own language, thus presenting what the courts have really said instead of what the text writer says they have said." The result of the author's application of this principle is a compromise between a text book and a digest, and, as is almost inevitable, lacks the virtues of either.

Opinions of courts are addressed to the facts at bar, and to determine the contribution of a decision to the law of a subject requires knowledge of, and discriminating application of the language to, those facts. Were it not so, a good digest would serve all the purposes of a law library.

A text writer should illustrate, harmonize and suggest, and if he would serve any useful purpose he must liberally supply what "the text writer says" the decisions mean. This the author has scarcely attempted. His reader must go to the cases cited, not to verify the author but to find out what the law is; and must still go to the digests to be sure that the cases cited are all that he needs to consult. The book has therefore little reason for being.

The following, which is selected at random, is typical and an illustration of the way in which the book breaks down for lack of personal contribution by the author:

Section 134 reads as follows:

"Where the broker does not accomplish the precise thing which he was employed to do, but what he did is accepted by the owner as being satisfactory, the broker is entitled to commissions.

If the broker negotiates a contract different from that prescribed by his employer and the employer subsequently ratifies it, and thus a contract is finally made which is satisfactory to him, then the broker has earned his commission. This applies where the broker has acted in good faith, and the contract made is either signed by the employer himself or is approved or ratified by him. It has been said, however, that 'the mere approval of the contract made by the broker where it is substantially different from the contract he was employed to make, cannot of itself be held to be an acceptance by the owner as performance of the broker's obligations.'"

This leaves the reader in the dark as to what is a ratification and what is not. For lack of the explanation or clue which the author's experience and legal training might have supplied it is meaningless.

Similar instances might be given of indecision in treatment of almost every matter touched upon, but to point out all of the defects of the book would require that it be paralleled by a running commentary.

Undoubtedly in the subject treated in this book much depends upon fine shadings of fact and there is much diversity of opinion, but the author might have made an effort to point out the lines along which distinctions are drawn, and where the decisions are conflicting to indicate what is the weight of authority and which the better opinion.

A bad principle of arrangement also contributes to the cloudiness of the book. I was told once of a girl who in packing her trunk tried to leave one end of everything sticking up so that when she wanted a particular article of dress she had only to open the top of the trunk and grab it. The author has followed the same principle in packing his book. He has tried to arrange it so that one can find complete in a separate chapter or separate paragraph the answer to the particular problem of the moment without having or troubling to acquire any knowledge of the general subject. The intent is praiseworthy, but the result, as the result of any similar attempt is bound to be, is simply incompleteness, repetition, and apparent contradiction.

J. G. Boston.

CASES ON ADMINISTRATIVE LAW. By ERNST FREUND. St. Paul, Minnesota: WEST PUBLISHING Co. 1911. pp. xxi, 681.

The study of administrative law is indebted to this compilation of Professor Freund's for a service even more important than that rendered to the law of trusts by the case-book of Dean Ames. The subject matter of the collection still receives but slight recognition in the law school curriculum. Those who concede its existence as a separate field of study disagree as to its scope and content. There is still room for the work of the pioneer. Professor Goodnow has blazed the trail and made straight the way for the student of government. Professor Freund's interest seems to lie more particularly in developing the subject from the point of view of individual private right. His selection and arrangement of cases merits unqualified approval not only because it provides an admirable case-book for the class-room and thus promotes the study of an important subject, but because it aids materially in securing a more definite conception of what are still ill-defined categories of legal principles. Painstaking scholarship and a genius for classification and arrangement have afforded supreme excellence of technique in the difficult art of case-book making.

The cases in the collection deal with the methods of securing judicial relief against administrative action and with objections to the validity of such action either because the power to act was improperly vested in an administrative authority, or because the specific action taken failed to comply with the procedural requirements imposed by some statute or constitution. For the most part these objections may be related to the constitutional requirement of due process of law. Particular decisions upon the remedy available against administrative action may involve directly no constitutional question; yet the impossibility of securing judicial relief may be urged in the proper form of action as a reason for denying the power of the legislature to vest in the administration authority to act in the manner complained of. Certain it is, at any rate, that any conception of the field of American administrative law must embrace many problems of distinctly constitutional import. Administrative law is in large part a subdivision of constitutional law. Schematically the two fields cannot be made dis-